

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission, on its)	
own motion, seeking to conduct an)	Application No. NG-0030/PI-98
investigation of alternative rate design)	
for commercial and industrial ratepayers)	

**WRITTEN COMMENTS OF NORTHWESTERN CORPORATION,
DOING BUSINESS AS NORTHWESTERN ENERGY**

In its Order of June 21, 2005, the Nebraska Public Service Commission (the “Commission”) requested written comments on issues related to alternative rate design options for certain commercial and industrial ratepayers in Nebraska served by Nebraska jurisdictional utilities. NorthWestern Corporation, doing business as NorthWestern Energy (“NorthWestern”) is one of three jurisdictional utilities providing service under the Nebraska State Natural Gas Regulation Act (the “Act”), codified at R.R.S. 2003 §§ 66-1801 through 66-1857 (citations to sections of the Act in these Written Comments will be by section number as: § _____). Through its tariffs filed with and accepted by the Commission, NorthWestern serves its ratepayers, other than high-volume ratepayers, who are served under negotiated arrangements, pursuant to §66-1810.

Background

As noted in the Commission’s Order Opening Docket in this matter, under the law existing prior to the Act, the Municipal Natural Gas Regulation Act, and, in particular, R.R.S. 1997 §19-4604(4), if a customer had natural requirements exceeding fifty thousand cubic feet per day, a utility could negotiate price and other contract terms with the customer. Elsewhere in the former law, a “customer” was defined as “a non-

interruptible purchaser of natural gas within a municipality with requirements of less than one hundred thousand cubic feet of natural gas per day” R.R.S. 1997 §19-4602(5). With the Act’s enactment, the description of a ratepayer’s consumption threshold under Commission regulation was defined in terms of what was not regulated, i.e. a “high-volume” ratepayer was defined as one “whose natural gas requirements equal or exceed five hundred therms per day as determined by average daily consumption,” § 66-1802(7). This new standard described natural gas consumption in terms of the heating value of the natural gas, as opposed to the volume of natural gas, consistent with the manner in which natural gas ratepayers have purchased such commodity in recent years, and it also spoke in terms of “average daily consumption” as opposed to the more vague language of the former law. Under the former law, it appeared to relate to peak day or maximum consumption as the threshold above which rates could be negotiated, and there was the inherent conflict between the 50 and 100 cubic feet per day in the two provisions of that law.

As a result of the use of “average daily consumption” language in the Act, certain commercial ratepayers who would formerly have been subject to negotiated rates would now fall within the regulated tariff service under the Act, i.e. those ratepayers whose peak demand exceeded the threshold but whose average daily consumption did not. For those ratepayers, natural gas service by the jurisdictional utility would be under its tariff, as filed with the Commission.

Kinder Morgan, another jurisdictional utility, had a number of ratepayers who fell within this changing regulatory situation. Legislation was introduced into the 2004

Nebraska Unicameral Legislature to authorize the Commission to provide a “waiver” of the definition for “high-volume ratepayers” for these ratepayers, in order to allow Kinder Morgan to continue to serve them under the previously negotiated contracts. LB 499 was enacted, which provides the Commission authority to waive application of the definition until June 1, 2007, and the Commission granted such waiver. Based at least in part upon interstate capacity and electronic flow control cost issues arising from the Kinder Morgan “waiver” case, the Commission has begun this proceeding to “explore less costly and more efficient alternative rate design options for ratepayers similar to the Waiver Customers.”

While NorthWestern has not been a party to the Kinder Morgan proceeding, NorthWestern wishes to provide its written comments in this matter to assist the Commission in its deliberations.

Alternative Rate Design Options - Tailor To Individual Jurisdictional Utility

NorthWestern believes that the Commission should work with each jurisdictional utility to determine the optimal rate design for that utility, rather than undertake to prescribe a specific rate design option for all jurisdictional utilities. Each jurisdictional utility has different service areas, serves different sized communities, and may even have a different manner for serving its ratepayers, e.g. Kinder Morgan’s customer choice program as compared to the traditional bundled services offered by NorthWestern.

As explained in more detail below, the Act provides for Commission review of the rates charged by jurisdictional utilities, whether upon a rate change application by the utility or upon the Commission initiating an investigation. Under either scenario, the

Commission's responsibilities include charging ratepayers for prudently incurred costs and avoiding unjust discrimination in the treatment of ratepayers.

Discussion of Commission's Issues to Explore

1. *Whether the Commission has the requisite jurisdiction to require an alternative rate design.*

The Commission's authority under the Act over jurisdictional utilities and the rates they charge to ratepayers is very broad, but such authority is limited by various provisions of the Act. For example, rates must be just and reasonable and not unreasonably preferential or discriminatory, § 66-1825(1); and the Commission must give "due consideration" to the public's need for "adequate, efficient and reasonable natural gas service" and the jurisdictional utility's need for sufficient revenue to furnish that service, including a "fair and reasonable return" on its investment, § 66-1825(3). As part of setting rates, the Commission must consider rate design alternatives. Existing rates are *prima facie* reasonable unless or until changed or modified by the Commission or through court proceedings, § 66-1807. Therefore, any change in rates must be supported by findings (following the presentation of evidence in support thereof) that justify such change. Proceedings for a change in rates can be instituted by a jurisdictional utility, § 66-1808, § 66-1838, § 66-1851, or § 66-1855; by the Commission in its investigatory role, § 66-1809; or via a complaint by a third party, § 66-1811.

Rate design alternatives are discussed in the Act. § 66-1851 provides for the customer choice or other programs for the unbundling of service by a jurisdictional utility. § 66-1855 provides for the Commission to authorize banded rates with a minimum and maximum rate, determination of rates by negotiation, and customer choice

or other programs for unbundling. The Act does not speak to the Commission “requiring” an alternative rate design, but rather it authorizes the Commission to approve alternatives. It is NorthWestern’s recommendation that such proposals be discussed in an open forum, during a proceeding, whether begun by the jurisdictional utility, the Commission, or a third party; and that any alternative rate design to be approved be done with the input of all participants, and after a full and fair hearing on the alternative and its ramifications for ratepayers and the jurisdictional utility. After such discussion and hearing, NorthWestern believes that an alternative that meets the necessary criteria to change the existing rate design will not be “required” but will be adopted as the natural result of such proceeding. An alternative implemented with full concurrence and support is more likely to be successful than an alternative “required” by the Commission, over the objection of the jurisdictional utility.

NorthWestern would also caution that, as noted above, the systems, service areas, and the jurisdictional utilities themselves serving Nebraska are very different, and imposing an alternative rate design on all jurisdictional utilities may not “fit” all of them, and may not be in the best interests of all of their ratepayers or all of the companies.

2. *Characteristics common to small and mid-size commercial and industrial [ratepayers] whose natural gas consumption does not meet the statutory minimum for “high-volume ratepayers”*

NorthWestern submits that there are numerous different characteristics for small and mid-size commercial and industrial ratepayers. In this category would fall a variety of types of ratepayers: governmental accounts such as schools, office buildings, etc.; churches; retail sales and service businesses of all types and sizes; irrigators; etc. It is

very difficult to generalize about the characteristics for such a broad and diverse ratepayer group – some are very weather-sensitive, others are not; some predominantly use natural gas for space heating purposes, while others use natural gas for processes. In NorthWestern’s Nebraska rate area, the principal characteristic of this group of ratepayers is that, because most, if not all, such ratepayers use natural gas for space heating, their consumption of natural gas is greater during the colder weather seasons and reduces significantly during warmer weather. By comparison, the “high-volume ratepayers,” while most also use natural gas for space heating, use more natural gas for processing activities.

3. *Possible alternative rate designs for said ratepayers*

The rate design alternatives included in § 66-1855 are certainly alternatives to traditional rate design. The number of other alternatives is limited only by the imagination of those involved. NorthWestern has prepared and recently had approved by the South Dakota Public Utilities Commission a special rate for certain smaller commercial ratepayers that allows them to “lock-in” their gas supply for the winter months, when many of them use a predominant amount of natural gas. By doing so, these ratepayers can avoid unpleasant market pricing surprises during the winter season. This new rate is particularly attractive to governmental accounts, where staying within budgets is particularly important.

NorthWestern also believes that banded rates and negotiated rates are popular with ratepayers, including those in this category.

4. *Technical issues related to implementation of alternate rate designs including but not limited to metering and flow control*

In order to implement certain rate design alternatives, a jurisdictional utility must monitor the daily flow of natural gas, in order to maintain system integrity and properly assign costs to ratepayers. To do so, telemetering equipment may be required. This equipment, while costly, may enable ratepayers to participate in such alternative programs, and the economic payback for such equipment may be relatively short for such ratepayers.

5. *Costs associated with implementation of possible alternate rate designs for ratepayers*

The costs for alternative rate designs, which will vary according to the type of alternative being considered, must be included as part of the discussion concerning the potential adoption of the alternative. All costs reasonably incurred by a jurisdictional utility to implement an approved rate design alternative should be included as part of the reasonable operating expenses of the utility, § 66-1825(7).

6. *Any statutory or regulatory changes necessary for alternate rate designs*


As noted above, any change in rate design must come following a proceeding, initiated by the jurisdictional utility, the Commission, or a third party. NorthWestern does not believe that any statutory or regulatory changes, other than such a proceeding, are necessary to implement banded rates, negotiated rate, or customer choice alternatives under § 66-1851, and, in fact, other alternative forms of rate design are also authorized by such statute, in that it lists the above three alternatives, and states that the Commission's right to authorize them is "including, but not limited to" those alternatives. Thus it

appears that the Commission has broad authority, under current law, to consider a wide variety of alternatives, so long as they are “consistent with general regulatory principles.”

DATED as of the 6th day of September, 2005.

RESPECTFULLY SUBMITTED,

NORTHWESTERN CORPORATION,
doing business as **NorthWestern Energy**



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